

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed December 23, 2008. At the time of the Final Office Action, Claims 42-55 and 69-82 were pending in this Application. Claims 56-68 were previously withdrawn due to an election/restriction requirement. Claims 42-55 and 69-82 stand rejected. Claims 42-46, 50, and 69-74, 77-80, and 82 have been amended. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicants' Amended Claims are Patentably Distinct Over the Cited References

Claims 42-55 and 69-82 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication 2001/0053687 filed by Timo Sivula ("*Sivula*") in view of U.S. Patent 6,138,158 issued to Stephen S. Boyle *et al.* ("*Boyle*"). In light of the above amendments, Applicants respectfully traverse and submit the cited art combinations, even if

proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

The cited references fail to teach or suggest all the elements of the pending claims. For example, amended independent Claim 42 recites, in part:

establishing, directly or indirectly a traffic channel connection to the telecommunication device for sending the information message and transmitting the information message via the established traffic channel connection during an information session;

terminating the information session upon the transmission of the information message; and

keeping the traffic channel connection established to the telecommunication device at least until the telecommunication device has analyzed the received information message and retrieved the stored multimedia message intended for the telecommunication device from the multimedia message service center via the established traffic channel connection during a fetching session;

such that both (a) the information message informing the telecommunication device about the stored multimedia message and (b) the multimedia message itself are transmitted to the telecommunication device during the same single traffic channel connection.

Sivula fails to teach or suggest the above recited elements. *Sivula* discloses “a short notification message is first transmitted from said multimedia message center to the terminal MSB of the B-subscriber as an indication of the message M that has arrived at said center. On the basis of the aforementioned indication, the terminal MSB of the B-subscriber automatically opens a connection oriented connection to the multimedia service center MMSC in order to retrieve the message M.” (Page 2, Paragraph [0014]). As an example, referring to FIG. 1, *Sivula* discloses that the a notification message 20 is “transmitted to the B-subscriber advantageously by means of a connectionless connection service,” where upon receiving the notification message 20, the B-subscriber “automatically initiates a set-up connection 21 to the multimedia message service center MMSC to retrieve the message.” (Page 3, Paragraphs [0034] and [0035]).

Thus, *Sivula* requires two separate traffic connections: a first connection for communicating the short notification message 20 and a second “set-up connection 21” established by the B-subscriber to retrieve the multimedia message M. Accordingly, *Sivula*

fails to disclose during the transmission of the notification message 20 to the B-subscriber and the retrieval of message M, (1) establishing a traffic channel connection to the telecommunication device for transmitting the information message; and (2) keeping the traffic channel connection established to the telecommunication device at least until the telecommunication device has retrieved the stored multimedia message via the established traffic channel connection, “such that both (a) the information message informing the telecommunication device about the stored multimedia message and (b) the multimedia message itself are transmitted to the telecommunication device during the same single traffic channel connection,” as recited in amended Claim 42.

Boyle also fails to teach or suggest the above recited elements of amended independent Claim 42.

For at least the reasons discussed above, Applicants respectfully request reconsideration and allowance of amended independent Claim 42 and all claims that depend therefrom. In addition, for analogous reasons, Applicants respectfully request reconsideration and allowance of amended independent Claim 69 and all claims that depend therefrom.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants enclose a Request for Continued Examination and authorize the Commissioner to charge \$810.00 to Deposit Account No. 50-4871, reference 071308.0991 of King & Spalding LLP. Applicants believe no additional fees are due; however, should the Commissioner deem that any additional fees are due, including any fees for any additional extensions of time, the Commissioner is hereby authorized to debit said fees from deposit account number 50-4871, reference 071308.0991.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512-457-2030.

Respectfully submitted,
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